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Letter dated 16 May 2007 from the Secretary-General to the President of the Security Council

Pursuant to Security Council resolution 1664 (2006), I have the honour to convey the attached letter from His Excellency Emile Lahoud, President of the Republic of Lebanon, dated 15 May 2007 (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Annex

Letter dated 15 May 2007 from the President of Lebanon addressed to the Secretary-General

[Original: Arabic]

I have learned through the news media that Mr. Fuad Siniora, the Prime Minister of a Government which is devoid of legitimacy in terms of the National Pact and the Constitution, sent you a letter calling on you to establish "the Special Tribunal for Lebanon" through the Security Council under a binding resolution on the grounds that its establishment by means of the Lebanese Constitution has become impossible and that the failure to set up the Tribunal will delay the advent of security and peace in the region.

In his letter, according to the version that was made public, Prime Minister Siniora stated that the Speaker of Parliament was preventing the Parliament from meeting to establish the Tribunal and suggested that no comments had been made about its Statute during the recent visit to Lebanon of your Special Envoy, Mr. Nicolas Michel.

I truly regret that Prime Minister Siniora should repeatedly indulge in such tactics in dealing with the highest international authority and should resort to falsifications and distortions of the facts in order to implicate the Security Council in action alien to its objectives, its role and its concerns as the supreme political authority of the United Nations and that he should endeavour to secure support for one Lebanese group over the other by using the international legitimacy that is the guarantor of the sovereignty of States and the unity and well-being of their people.

I refer to the letter that you addressed to me on 2 January 2007 in which you expressed your determination to do everything in your power to ensure that the United Nations is equal to the hopes placed in it by the Member States. Perhaps the most outstanding illustration of that honourable position were the discussions which you held with me on more than one occasion and the fact that you sent your Special Envoy, Mr. Nicolas Michel, to Lebanon to meet me and to obtain my written comments on the draft agreement on the Tribunal and its Statute. He received a copy of those comments which, in every detail, convey my desire to set up the Tribunal using authorized constitutional means in Lebanon, free from any suspicion or political agenda and without any distortion of its mandate, thus making the Tribunal legally unimpeachable, and enabling it to perform its expected role, namely to prosecute those responsible for the assassination of the late Mr. Rafiq Hariri and his distinguished companions without any deviation into political conjectures aggravated by the factionalism and sharp divisions and apprehensions which still beset the free and honourable citizens and officials of my country.

There is no harm in reminding you of the following established facts about which there is no dispute:

1. I was the first Lebanese official to ask for an international investigation immediately upon the occurrence of the terrorist crime that took the life of Prime Minister Rafiq Hariri and his companions.

2. Approval of the Tribunal did not take place in Lebanon in accordance with the provisions of the Constitution, beginning with the negotiation phase. In that

regard the competence of the President of the Republic, as provided for in article 52 of the Constitution, was transgressed, leading to a complete disregard, in the case of the Tribunal and its Statute, of the procedure for approval of international treaties as set forth in the Constitution.

3. The President of the Republic is, according to the Constitution which guides our political system, Head of State, symbol of national unity, and guardian of respect for the provisions of the Constitution and of the integrity of the homeland and its people. It was from this standpoint that I pointed out to you in my letter of 5 February 2007 that approval of the Tribunal directly by the Security Council would constitute a transgression of the constitutional mechanism that had been completely ignored, thus increasing anxiety about its being politicized or used for political purposes, which would ultimately rob it of its capacity to produce the juridical results expected of it, resulting in dire consequences for the stability and civil peace of the country that I have tirelessly been trying to preserve.

4. The Security Council, including its President, its members and the Secretary-General, has on more than one occasion expressed its desire to see the provisions of the Lebanese Constitution adhered to in the course of concluding the International Agreement on the Special Tribunal. But this has not been the case, contrary to what is claimed by Prime Minister Fuad Siniora, who, along with his Government, which lacks legitimacy under the National Pact and the Constitution, is disregarding the will of an entire people who yearn for justice and nothing more, and fear for their unity should there be imposed upon them a Tribunal that they have not taken part in establishing and reinforcing in order to achieve that goal.

5. I draw your attention, Sir, to the fact that the constitutional institutions in Lebanon are not closed to a Tribunal established by the discretionary decision of those in charge of them, especially the Parliament. But it is the duty of the Parliament not to bypass the Constitution and not to violate its provisions and the competence of its authorities, beginning with the competence of the President of the Republic under article 52 of the Constitution.

This is in addition to the fact that Parliament cannot stand by and watch the violation of the Constitution and the tyranny of a ruling clique that disregards the imperatives of national reconciliation and communal existence and resorts to seeking power through an outside force over its people and institutions. How can this Parliament consider the draft act on the Tribunal that has been published in the Official Gazette as though it had been properly submitted to it, knowing that that publication and submission took place without the signature of the President of the Republic who alone is charged by the Constitution with submitting draft laws to Parliament in accordance with article 53, paragraph 6, of the Constitution.

6. This Government lost its legitimacy under the National Pact and the Constitution as of 11 November 2006, when an entire significant sectarian bloc withdrew from it, and its Prime Minister has not tried for one day to secure its return, so that it has been completely absent from the decision-making process as though it were out of the country.

Is this what is desired for a nation based on coexistence and on the Charter that emerged from the Taif Agreement, which ended one of the worst conflicts that could ever beset a people and from which it emerged with a unifying strength? It has no

desire to fall back into a state of strife and polarization according to its leaders, who are most solicitous of preserving this unique form of coexistence.

Do we wish to undermine this will or strengthen it?

Is it conceivable that the Security Council could be used in a manner contrary to the purposes of the United Nations when it ought to be used to affirm them by helping peoples to strengthen the bonds of their unity and the source of their strengths and unify their efforts aimed at bringing about a collective national resolve?

7. I should like to remind you, Sir, that I have yet to receive a substantive and written reply to the detailed observations that I had made on two occasions in response to the successive "last minute" drafts of the Agreement and Statute of the Special Tribunal, which reached me in a manner not sanctioned by the Constitution. I promised myself that I would not use lack of time as an excuse, as though the Tribunal were punishment in and of itself. I tried, instead, to set forth detailed observations on what I considered, and still consider, to be a unifying goal for my countrymen — to know the truth — in the hope those observations might be of help in reaching that noble goal. There has been no procrastination and there are no closed roads. Perhaps Mr. Nicolas Michel informed you of those observations, which are documented with both your esteemed Office and mine.

Yet my desire not to involve the Security Council, the highest authority within the United Nations, in the internal affairs of my country and its established constitutional mechanisms or in the political groupings that have arisen out of those blatant constitutional violations, has only been met with the insistence of the group which rules outside the bounds of the National Pact and the Constitution on entreating the Council, whose impartiality and dignity I greatly value, to involve itself in internal Lebanese affairs and favour one political grouping over another.

I shall not enumerate the many violations of my country's Constitution by a group which rules outside the bounds of the National Pact and the Constitution. I only ask that you remain mindful, as you promised me, of the interest of the United Nations and its exalted, effective and impartial role on the one hand, and the interest of my nation and people on the other as they tirelessly strive to preserve unity, stability, security and peace in a troubled region that is rocked by polarization, conflicting interests and struggles. I hope, Sir, that you will take action. Please have this letter circulated to the members of the Security Council and place it on file at the United Nations to be referred to when necessary so as to recall its contents and the righteous desires and true warnings contained therein.

(*Signed*) Émile **Lahoud**